IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1471 OF 2006

Shrinivas Ramchandra Kulkarni .. Petitioner

versus

Chipping & Painting Employers Association Pvt.Ltd. .. Respondent

...

Mr.N.M. Ganguli for the petitioner.

Mr.Piyush Patel a/w R.N. Shah for the respondent.

CORAM : D.G. KARNIK, J

DATED : 20th June 2006.

P.C.:

1. This petition is directed against the order dated 16th March 2005 passed by appellate authority under the Payment of Gratuity Act 1972 confirming the judgement of the controlling authority i.e. Asstt. Commissioner of Labour (Central). The Asstt. Commissioner of Labour (Central) held that he was not

the controlling authority but the Assistant Commissioner Labour was the controlling authority and that decision has been confirmed by the appellate authority.

2. The petitioner made an application for payment of gratuity to the Asstt. Labour Commissioner (Central) who is the controlling authority appointed by the Central Government. A separate controlling authority viz. Asstt. Labour Commissioner (State) has been appointed as controlling authority by the State Government for the industries for which the State Government is an appropriate government. The question that is required to be considered is which is the controlling authority in respect of the respondent.

3. Controlling authority has been defined u/s.3 of the Payment of Gratuity Act (for short 'the Act') to mean the authority appointed by the appropriate government under section 3. "Appropriate government" is defined u/s.2(9) of the Act to mean the central government in relation to several establishments which include a major port. According to the petitioner, he is employed in relation to an establishment of a major port and therefore, central government is an

appropriate authority. The averments made in the application thus shows that the petitioner is not employed in relation to an establishment to a Court who is employed in respect of the work of cleaning and providing certain services to ships. Services may be provided under a port but that does not mean that the services provided are services in relation to the establishment of the petitioner. They are services provided to the ships and not to the establishment of the port. The controlling authority has therefore rightly held that in respect of the petitioner, the appropriate government would be the state government and the controlling authority would be the controlling authority appointed by the state government and the controlling authority appointed by the state government.

3. No fault can be found in this decision. Petition is therefore rejected. Petitioner is at liberty to approach the controlling authority appointed by the State.

(D.G. KARNIK, J)